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EXAMINER

CARTER, WILLIAM JOSEPH

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/510,310
Filing Date: October 06, 2004
Appellant(s): PETERS, RALPH HUBERT

MAILED

SEP 21 2007

GROUP 2800

Anne E. Barschall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 14 June 2007 appealing from the Office
action mailed 22 November 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Co-pending application serial no. 10/535,293 does stand rejected for double patenting, but is no longer on appeal because of a Non-Final Office action mailed 7 September 2007.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 0 336 478 A1	Maassen et al.	11-1989
6,382,816	Zhao et al.	5-2002
5,140,220	Hasegawa	8-1992

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Maassen et al. (EP 0 336 478 A1).

With respect to claim 1, Maassen teaches a lighting unit (Fig. 1) provided with a concave reflector (1) having an axis of symmetry (2) with a light emission window (4) bounded by an edge of the reflector (3) which surrounds the axis transversely (Fig. 1), an elongate light source (22) which is axially arranged substantially on the axis of symmetry (Fig. 1) and which is accommodated in a holder (24) opposite the light emission window, and an axially positioned cap (10) serving as an optical screening means that partly surrounds the light source for intercepting unreflected light rays (Fig. 1), characterized in the cap forms part of a sleeve (10 and 24) surrounding the light source (Fig. 1).

As for claim 2, Maassen teaches the cap (10) is provided with an edge (top edge of 10) which is impermeable to light and which extends transversely (Fig. 1) the axis of symmetry (2).

As for claim 3, Maassen teaches the edge (top edge of 10) is formed as a transition (Fig. 1) between the cap (10) and a sleeve (10 and 24) portion located between the cap and the holder (24).

As for claim 5, Maassen teaches the reflector (1) and the light source are indetachably integrated into a lamp (Fig. 1).

Claims 7, 8, 13-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen.

With respect to claims 7, 13, and 14, Maassen teaches all of the claimed elements, as discussed above, as well as a coating (page 3, lines 34-38) for screening and intercepting light. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the coating on the cap of Maassen, in order to darken it to produce its screening and intercepting properties. Maassen does not explicitly teach the sleeve and cap are formed from a single piece of material. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to make the cap and sleeve integral, since it has been held that making an old device integral without producing any new and unexpected result involves only routine skill in the art. In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

As for claim 8, Maassen teaches a screening ring (ring at the base of cap 10) around the axis and disposed at a perpendicular angle with respect to the axis (Fig. 1), the screening ring enhancing the screening properties of the sleeve (24) and cap unit (10).

As for claims 15-17 and 19, Maassen teaches all of the elements, which are assembled as claimed, thus the method is inherently taught.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen in view of Zhao et al. (6,382,816).

With respect to claim 6, Maassen teaches all of the claimed elements, as discussed above, except for explicitly teaching the lamp is a metal halide lamp with a ceramic discharge vessel. Zhao, also drawn to lighting with reflectors, teaches a lamp is a metal halide lamp with a ceramic discharge vessel (column 7, lines 52-53). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the lamp of Zhao in the light of Maassen, in order to utilize a light source (column 7, lines 50-53).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen in view of Hasegawa (5,140,220).

With respect to claim 18, Maassen teaches all of the claimed elements, as discussed above, except for explicitly teaching a screening ring is at a non-perpendicular angle with respect to the axis. Hasegawa, also drawn to lighting units, teach a screening ring (3) disposed at a non-perpendicular angle with respect to an axis (Fig. 1). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the screening ring of Hasegawa in the lighting unit of Maassen, in order to provide a simple structure to diffuse the light emitted by the light source (column 1, lines 39-45). Maassen and Hasegawa teach all of the elements, which are assembled as claimed, thus the method is inherently taught.

Claims 1, 2, 5, and 6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, and 8 of copending Application No. 10/535293. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending Application No.

10/535293 also teaches the metal halide lamp with a ceramic discharge vessel that is indetachably integrated with the reflector into a lamp, with the same orientation, and the same optical screen cap that is provided with the same edge/screening ring.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 4 and 9-12 are allowed.

(10) Response to Argument

The Appellant argues that the prior art does not teach that the cap forms part of a sleeve surrounding the light source. Maassen teaches a cap (10) and an envelope (24) surround a light source (22), and therefore the examiner has defined a sleeve surrounding light source (22) as items 10 and 24 (Fig. 1). Because the sleeve is defined as items 10 and 24, cap (10) forms part of a sleeve (10 and 24) surrounding light source (22).

The Appellant argues that the prior art does not teach an "edge is formed as a transition between the cap and a sleeve portion located between the cap and the holder." Maassen clearly teaches an edge (top edge of 10) formed as a transition (Fig. 1) between the cap (10) and a sleeve portion (24) located between the cap (10) and the holder (6).

Contrary to the Appellants' arguments in the discussion of claims 7, 8, 13-17, and 19 each claimed element is clearly recited in the discussion of each claim, or the element has been previously discussed. When the elements have been previously discussed, this teaching is clearly pointed out in each claim rejection.

The Appellant argues that it would not have been obvious to make the cap (10) and the envelope (24) integral, but it has been held that it is obvious to one of ordinary skill in the art to make an old device integral without producing any new and unexpected result involves only routine skill in the art. In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Although the Appellant argues that the examiner does not say that he is speaking about claim 13 in the discussion of the coating, it is stated in the Office action that "with respect to claims 7, 13, and 14, Maassen teaches all of the claimed elements, as discussed above, as well as a coating (page 3, lines 34-38) for screening and intercepting light." Claims 13 and 14 both claim a coating, so the examiner's intent to discuss claims 13 and 14 is clear in the Final Office Action. Maassen does in fact teach a coating for the purposes of intercepting light rays (page 2, lines 2-4; page 3, lines 23-26; and page 3, lines 34-38). Simply because the cap (10) already has Maassen's desired optical properties, it does not make it unobvious to alter a cap with the coating in order to achieve the optical properties achieved with the coating.

The Appellant argues that one of ordinary skill in the art would not have made the combination of Maassen and Zhoa. Zhoa teaches a metal halide lamp with a ceramic discharge vessel is a light source that may be utilized (column 7, lines 49-53) in order to develop a more energy efficient lamp which maintains acceptable temperatures, colors, and life (column 2, lines 23-27).

The Appellant argues that it would not be obvious to one of ordinary skill in the art to combine Maassen and Hasegawa. Both Maassen and Hasegawa teach lighting.

Hasegawa teaches using a screening ring in order to provide a simple structure to diffuse the light emitted by the light source (column 1, lines 39-45). In order to diffuse the light, the screening ring must intercept the light.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

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Assistant Examiner
September 14, 2007

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